

Appl. No.: 10/627,119  
Reply to Office Action of: 11/12/2004

REMARKS

In regard to sections 3 and 4 of the office action, the title and the abstract have been amended above. In regard to section 5 of the office action, the examiner is requested to withdraw his objection to the claims. It appears to be no reason to change "A" to "The" in the dependent claims. A dependent claim which starts with "A" is perfectly acceptable as evidenced by MPEP 608.01(n)(A). The examiner is requested to reconsider his objection.

Claims 11-16 and 20-23 were rejected under 35 U.S.C. 102(b) as being anticipated by Alvarez (US 2,580,269). The examiner is requested to reconsider this rejection.

Anticipation requires that each and every element of the claimed invention be disclosed in a single prior art reference (emphasis added). In re Paulsen, 30 F.3d 1475, 31 USPQ2d 1671, 1673 (Fed. Cir. 1994). Anticipation requires identity of the claimed invention (emphasis added). Tyler Refrigeration v. Kysor Indus. Corp., 777 F.2d 687, 227 USPQ 845 (Fed. Cir. 1985). For anticipation, there must be no difference between the claimed invention and the reference disclosure (emphasis added). Scripps Clinic & Res. Found. V. Genentech, Inc., 927 F.2d 1565, 18 USPQ2d 1001 (Fed. Cir. 1991). The corollary of the rule is that absence from the reference of any claimed element negates anticipation. Kloster Speedsteel AB v. Crucible, Inc., 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986).

Independent claim 11 claims extruding a metal member. There is no disclosure or suggestion in Alvarez that the member 10

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(or any other member) is extruded. Therefore, claim 11 is not "anticipated" by Alvarez. Independent claim 20 claims extruding a metal member. There is no disclosure or suggestion in Alvarez that the member 10 (or any other member) is extruded. Therefore, claim 20 is not "anticipated" by Alvarez.

In the present case, the examiner has not proven that there is identity between the cited references and the features of claims 11-16 and 20-23. In the present case, the examiner has not proven that each and every element of the claimed invention is disclosed in the cited references. In the present case, the examiner has not proven that there are no differences between the claimed invention and the reference disclosures.

Though dependent claims 12-16 and 21-23 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claim 11 and 20, respectively. However, to expedite prosecution at this time, no further comment will be made.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issue remain, the examiner is invited to call applicant's attorney at the telephone number indicated below.

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Respectfully submitted,

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